



SP00-154A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Michael E. Badding, et al

Serial No: 10/077,301

Filed: 2/15/2002

For: HIGH PERFORMANCE SOLID
ELECTROLYTE FUEL CELLS

TERMINAL DISCLAIMER

Examiner: Jonathan Crepeau

Group Art Unit: 1746

**TERMINAL DISCLAIMER
PURSUANT TO 35 U.S.C. § 253 AND 37 C.F.R. § 1.321(a)**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

I, Kees van der Sterre, an attorney of record for the above-captioned application, hereby declare that:

1. To the best of my knowledge and belief Corning Incorporated, duly organized under the laws of the State of New York and having its principal place of business at One Riverfront Plaza, Corning, New York 14831:

- is the only assignee of the entire right, title and interest in and to the above-captioned application, Serial No.10/077301, filed 2/15/2002, for HIGH PERFORMANCE SOLID ELECTROLYTE FUEL CELLS, in the name of Corning Incorporated, as indicated by assignment(s) duly recorded in the United States Patent and Trademark Office at Reel No. 012620, Frame Nos. 0156, and
- is and at all times was the only assignee of U.S. Patent No. 6,623,881, for HIGH PERFORMANCE SOLID ELECTROLYTE FUEL CELLS WITH SILVER ALLOY ELECTRODES in the name of Corning Incorporated, as indicated by assignment(s)

duly recorded in the U.S. Patent and Trademark Office at Reel No. 011836, Frame No. 0706, and

- is and at all times was the only assignee of application Serial No. 10/422,356, filed 4/24/2003, for FUEL CELLS WITH ENHANCED VIA FILL COMPOSITIONS AND/OR ENHANCED VIA FILL GEOMETRIES in the name of Corning Incorporated, as indicated by assignment(s) duly recorded in the U.S. Patent and Trademark Office at Reel No. 014362, Frame No. 0022.

2. I further represent that I have reviewed the evidentiary documents establishing the assignments and certify, that to the best of my knowledge and belief, title to the above-captioned application and the United States Patent No. 6,623,881 and above-identified second pending application, Serial No. 10/422,356, filed on 4/24/2003 are in Corning Incorporated.

3. To obviate a double patenting rejection, Petitioner, Corning Incorporated, hereby disclaims, under the provisions of 37 C.F.R. § 1.321, the terminal part of any patent granted on the above-captioned application, Serial No. 10/077,301, which would extend beyond the expiration date of the full statutory term, including any extensions of the original term, including those defined in 35 U.S.C. §154 to §156 and §173, as presently shortened by any terminal disclaimer of:

- prior Patent No. 6,623,881, issued on 9/23/2003, and
- any patent granted on pending application, Serial No. 10/422,356, filed 4/24/2003.

As used herein, the term "extension" includes the increase in the seventeen year term of patents under the Uruguay Round Agreement Act, as well as other extensions granted in the future. Petitioner hereby further agrees that any patent so granted on the above-captioned application shall be enforceable only for and during such period that the legal title to said

patent shall be the same as the legal title to United States Patent No. 6,623,881, and to any patent granted on pending application Serial No. 10/422,356, this agreement to run with any patent granted on the above-captioned application and to be binding upon the grantee, its successors or assigns.

4. Petitioner does not disclaim any part of the term of any patent granted on the above-captioned application, Serial No.10/077,301, falling prior to the end of the full statutory term of U.S. Patent No. 6,623,881, or prior to the end of the full statutory term of any patent granted on application Serial No. 10/422,356, in the event that U.S. Patent No. 6,623,881 or any patent granted on Serial No. 10/422,356 should expire prior to their full statutory terms by reason of, for example, failure to pay a maintenance fee, a holding of unenforceability, a holding of invalidity, the filing of a statutory disclaimer in whole or in part under 35 U.S.C. §253 and 37 C.F.R. § 1.321(a), or the cancellation of all claims by a reexamination certificate.

5. In accordance with the fee schedule set forth in 37 C.F.R. § 1.20(d), the required fee of \$110, as well as any additional fees due in connection with the filing of this response, are hereby authorized by Corning Incorporated to be charged to our Deposit Account No. 03-3325. If any fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such an extension is requested and the fee also authorized to be charged to said Deposit Account.

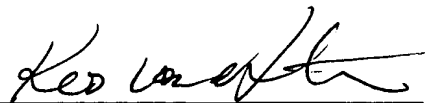
6. The undersigned is authorized to act on behalf of assignee Corning Incorporated.

I hereby declare that all statements made herein of my own knowledge and belief are true and that all statements made herein on information and belief are believed to be true and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the

validity of the application or any patent issuing thereon.

Respectfully submitted,

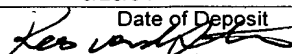
DATE: September 28, 2004



Kees van der Sterre
Attorney for Assignee
Reg. No. 25,938
Corning Incorporated
SP-TI-03-1
Corning, NY 14831
Phone: (607) 974-3294

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on 9/28/04

Date of Deposit



Kees van der Sterre